

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

SERVICIOS DE DESCUENTO EN
COMPRA, INC.

DEBTOR

CASE NO. 09-00832 (ESL)

CHAPTER 11

**MOTION FOR THE ALLOWANCE OF ADMINISTRATIVE EXPENSES AND
PAYMENT THEREOF**

TO THE HONORABLE COURT:

Comes now **WHIRPOOL CORPORATION**, (hereinafter WHIRPOOL), creditor in the instant case, by and through the undersigned counsel, and hereby submits this request for entry of an order directing the payment of administrative expenses, pursuant to 11 U.S.C. 503.

I. JURISDICTION

This Court has jurisdiction over these chapter 11 proceedings and this motion pursuant to 28 U.S.C. §§ 157 and 1334. This motion presents a core proceeding as defined in 28 U.S.C. § 157(b)(2)(a) and (o). Venue is proper in this district pursuant to 28 U.S.C. § 1408. The statutory authority for the relief requested is 11 U.S.C. §§ 105(a) and 503(b).

II. FACTUAL BACKGROUND

On February 6, 2009, (the "Petition Date"), Servicios de Descuento en Compra, Inc. (the "Debtor") filed with this Court a

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voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). After the Petition Date, the Debtor continued managing its business as Debtor in Possession.

Subsequent to the Petition Date, the Debtor purchased 142 electric appliances from Whirlpool, which became part of the Debtor's inventory. To that effect, on February 9, 2010, Whirlpool issued Invoice Number 8010333702 in the amount of \$57,386.00 (the "Claim Amount"). Copy of the invoice is attached hereto as **Exhibit A**. Although the invoice's due date was April 10, 2010, as of this date, the Claim Amount remains outstanding in its entirety.

III. DISCUSSION

Whirlpool is entitled to an administrative claim for the Claim Amount Pursuant to Section 503 of the Bankruptcy Code, 11 U.S.C. §503. Section 503(a) allows an entity to file a request for payment of an administrative expense. See 11 U.S.C. §503(a). At the same time, Section 503 (b)(1)(A) allows for the payment of administrative expenses, including "...the actual necessary costs and expenses of preserving the estate...". 11 U.S.C. §503(b)(1)(A). In a retail business such as the Debtor's, the acquisition of inventory is an essential expense for the preservation of the estate.

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On the other hand, pursuant to section 507(a)(1) of the Bankruptcy Code, administrative expenses are accorded first priority. In re Enron, 279 B.R. 695, 704 (Bankr. S.D.N.Y. 2002), *citing* In re Jartran Inc. 732 F.2d 584(7th Cir. 1984). This priority is based on several bankruptcy goals.

First, the operation of the debtor's business benefits the pre-petition creditors; therefore, claims based on post-petition operations are entitled to priority payment over those "creditors for whose benefit the continued operations of the business was allowed." In re Enron, 279 B.R. at 704, *citing* Cramer v. Mammoth Mart. Inc. (In re Mammoth Mart. Inc.), 536 F.2d 950, 954 (1st Cir. 1976). Mammoth was decided under the former Bankruptcy Act, but its analysis is applicable under the Bankruptcy Code. Enron, 279 B.R. at 704, *citing* In re Drexel Burnham Lambert Group, Inc., 134 B.R. 482, 489 (Bankr.S.D.N.Y. 1991).

Second, administrative expenses are afforded first priority in order to facilitate the reorganization effort by encouraging otherwise reluctant third parties to trade with the debtor. Id., *citing* Amalgamated Ins. Fund v. McFarlin's. Inc., 789 F.2d 98, 101 (2d Cir. 1986). Absent this advantage in priority, third parties would be reluctant to trade with a Debtor in Possession, and therefore hurt the reorganization effort and the prepetition

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creditors. See id.

According to Enron, an expense will be accorded administrative status (i) if it arises out of a transaction between the creditor and the bankrupt's trustee or Debtor in Possession; and (ii) only to the extent that the consideration supporting the claimant's right to payment was both supplied to and beneficial to the Debtor in Possession in the operation of the business. Enron, 279 B.R. at 705, *citing* Amalgamated, 789 F.2d at 101.

The Claim Amount subject of the present motion constitutes an administrative expense, since the same was incurred by the Debtor in the course of its business operation after the Petition Date, as a means to preserve its estate and further its reorganization efforts under Chapter 11 of the Bankruptcy Code, 11 U.S.C. Chapter 11. As a result, Whirlpool should be entitled to an administrative claim for the Claim Amount under section 503(a) of the Bankruptcy Code.

For the same reasons, the Court should deem the unpaid Chapter 11 administrative expense due Whirlpool in the amount of \$57,386.00 (the Claim Amount) as an actual and necessary expense of the Debtors' bankruptcy estate under section 503(b)(1)(A) of the Bankruptcy Code, accord administrative expense priority to the same pursuant to section 507(a)(1) of the Bankruptcy Code, and order its

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immediate payment.

WHEREFORE, Whirlpool respectfully requests that the Court enter an Order (i) allowing the Claim Amount of \$57,386.00 as an administrative expense under section 503(b)(1)(A) of the Bankruptcy Code on account of post-petition expense to preserve the estate; (ii) according it administrative expense priority pursuant to section 507(a)(1) of the Bankruptcy Code; (iii) directing Debtor to immediately pay the Claim Amount of \$57,386.00; and (iv) granting such other relief as the Court deems just and proper.

NOTICE: Unless a party in interest objects to the instant motion within twenty (20) days from the date of notice, the request for the allowance of administrative expense may be allowed and granted by the Court.

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the CLERK OF THE COURT using the CM/ECF system, which will send notification of such filing to the U. S. Trustee's Office and all CM/ECF participants.

Respectfully submitted.

In Bayamón, Puerto Rico, this 2nd day of May, 2010.

/S/ PATRICIA GUIJARRO ALFONSO
PATRICIA GUIJARRO ALFONSO
ATTORNEY FOR WHIRPOOL CORPORATION
USDC-PR 220213
PO Box 8672
Bayamón, PR 00960-8036
Phone: (787) 269-3660
Fax: (787) 779-8502
E-Mail: lcdapatriciaguijarro@hotmail.com



2000 M-63, MD7560
Benton Harbor, MI 49022-2692

INVOICE

REMIT TO:

Whirlpool Corporation
5301 Blue Lagoon Drive, Suite 700
MIAMI FL 33126
USA

BILL TO: 1283389
SEDECO DISCOUNT
PO Box 4559
00984 CAROLINA
PUERTO RICO

SHIP TO: 779032
SEDECO DISCOUNT
PDA. 35 LADO ASS DEL MAESTRO
AVE. PONCE DE LEON 452
SAN JUAN PR 00917
USA

SOLD TO: 779032
PDA. 35 LADO ASS DEL MAESTRO
AVE. PONCE DE LEON 452
SAN JUAN PR 00917
USA

INVOICE NO	8010333702
INVOICE DATE	02/09/2010
PAGE NO	1 of 2
CUSTOMER P.O. NO	ORDEN DE COMPRA, SED
ORDER NO	143543152
SHIP DATE	02/09/2010
SHIP MANIFEST NO	235887469
TERMS/PLAN NO	WN60
APPROVAL NO	
INVOICE TOTAL	57386.00 USD
DUE DATE	04/10/2010
TERMS	NARSO/PUERTO RICO 60 DAY
DUNS NO	

CONTACT INFORMATION:

Credit - Miami, FL
1-305-477-4276

LINE NO.	MODEL/ PART NUMBER	DESCRIPTION	SKU NO/ UPC CODE	QUANTITY SHIPPED	UNIT PRICE	EXTENDED AMOUNT
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ORDER NO 143543152

1	W8TXNGFWQ	2009 WHPL 18'TFA. WHITE		21	452.00	9492.00
2	ET0MSRXTL	REFRIGERATOR TOP MOUNT 10' GLA		21	314.00	6594.00
3	WTW5100VQ	27" SUPER CAPACITY WASHER		140	295.00	41300.00
SUBTOTAL						57386.00
TOTAL						USD 57386.00

Model	Serial No.
W8TXNGFWQ	VS3744921 VS4554287 VS3993258 VS3845914 VS3845132 VS3744307 VS3845393 VS3845671 VS3744536 VS3845606 VS4554209 VS3744308 VS4554289 VS3993249 VS4553982 VS4553972 VS3744146 VS3845841 VS3743236 VS3744120 VS3744043 VS3658949 VS3658919 VS3658964 VS3693032 VS4487790 VS4487841 VS4487797 VS4487787 VS4487753 VS4487840 VS4487751 VS4487777 VS4930092 VS4487806 VS4487723 VS4930141 VS3658930 VS4487798 VS4487733 VS4929742 VS4487774
ET0MSRXTL	CY4741209 CY4741240 CY4741166 CY5021882 CY5021866 CY4960177 CY4960174 CY4960151 CY4960145 CY5060122 CY5060102 CY4960150 CY4960144 CY5060101 CY5060121 CY2130624 CY2131566 CY2131938 CY2131934 CY2131816 CY2131944 CY2131349 CY2131644 CY2131949 CY2330903 CY2330921 CY2131968 CY5340399 CY5340419 CY5340363 CY5340357 CY5340361 CY5340356 CY5340400 CY5340420 CY3244530 CY5021355 CY5061062 CY3244526 CY2131950 CY2131969 CY2330920 CY2330902 CY2330922 CY2330904 CY2330905 CY2330923 CY2330853 CY2330871 CY2131222 CY2130777 CY4960138 CY4960134 CY5060167 CY5060147 CY5340423
WTW5100VQ	



2000 M-63, MD7560
Benton Harbor, MI 49022-2692

INVOICE

REMIT TO:

Whirlpool Corporation
5301 Blue Lagoon Drive, Suite 700
MIAMI FL 33126
USA

BILL TO: 1283389
SEDECO DISCOUNT
PO Box 4559
00984 CAROLINA
PUERTO RICO

SHIP TO: 779032
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PDA. 35 LADO ASS DEL MAESTRO
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SOLD TO: 779032
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INVOICE NO	8010333702
INVOICE DATE	02/09/2010
PAGE NO	2 of 2
CUSTOMER P.O. NO	ORDEN DE COMPRA, SED
ORDER NO	143543152
SHIP DATE	02/09/2010
SHIP MANIFEST NO	235887469
TERMS/PLAN NO	WN60
APPROVAL NO	
INVOICE TOTAL	57386.00 USD
DUE DATE	04/10/2010
TERMS	NARSO/PUERTO RICO 60 DAY
DUNS NO	

CONTACT INFORMATION:

Credit - Miami, FL
1-305-477-4276

LINE NO.	MODEL/ PART NUMBER	DESCRIPTION	SKU NO./ UPC CODE	QUANTITY SHIPPED	UNIT PRICE	EXTENDED AMOUNT
	CY5340443 CY5060148 CY5060168 CY2131365 CY2131169 CY2330889 CY2330892 CY4741226 CY4741222 CY4741005 CY4741010 CY4741218 CY4741214 CY4741231 CY4741169 CY4741015 CY4741011 CY4741227 CY4741223 CY5340456 CY5340452 CY5340455 CY5340451 CY5340421 CY5340442 CY4843712 CY4960196 CY4960141 CY4960161 CY4960162 CY4960142 CY2131965 CY2131011 CY2131962 CY5021353 CY3244527 CY3244525 CY5061063 C00220005 C00220001 CY2131519 CY2130865 CY2330893 CY2330890 CY5060123 CY5060143 CY5060124 CY5060144 C00220002 C00220006 C00220126 C00220121 CY3244312 CY5340344 CY5240437 CY5340308 CY5340343 CY5340462 CY5340457 CY4960190 CY4960186 CY4434495 CY4434475 CY5060111 CY5021863 CY5021860 CY5340484 CY5340480 CY5340438 CY5340266 CY4960192 CY4960187 CY5340477 CY5340472 CY4741207 CY4741162 CY4741159 CY4741165 CY5021883 CY5021867 CY4960176 CY4960173 CY2131961 C00220120					

CARRIER INFO: SWCA/GHOST WILL CALL AGENT

PRO NO:

TRAILER NO: 620